

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVOOD KHADEMI,

Plaintiff,

v.

SUPERIOR COURT OF PLACER  
COUNTY, et al.,

Defendants.

No. 2:23-cv-1860-TLN-CSK

**ORDER**

Plaintiff is a county prisoner, proceeding without counsel, in this civil rights action pursuant to 42 U.S.C. § 1983. On April 26, 2024, the magistrate judge recommended that this action be dismissed because Plaintiff's second amended complaint failed to state a potentially colorable claim for relief. (ECF No. 15.) On May 15, 2024, this Court adopted the April 26, 2024 findings and recommendations and dismissed this action. (ECF Nos. 18, 19.)

On June 5, 2024, the Ninth Circuit Court of Appeals referred this matter to this Court for the purpose of determining whether Plaintiff's *in forma pauperis* status should continue for appeal or whether the appeal is frivolous or taken in bad faith. *See* 28 U.S.C. § 1915(a)(3); *see also Hooker v. American Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002) (revocation of *in forma pauperis* status is appropriate where district court finds the appeal to be frivolous). An action is

1 frivolous “where it lacks an arguable basis in either law or fact.” *Neitzke v. Williams*, 490 U.S.  
2 319, 325 (1989). In other words, the term “frivolous,” as used in § 1915 and when applied to a  
3 complaint, “embraces not only the inarguable legal conclusion, but also the fanciful factual  
4 allegation.” *Id.*

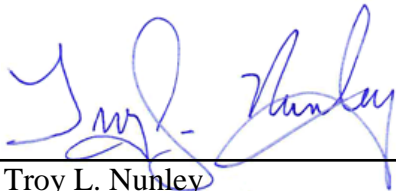
5 Based upon the record before it, the Court cannot conceive of any valid grounds upon  
6 which an appeal can be based. The Court therefore finds that Plaintiff’s appeal taken from its  
7 May 15, 2024 Order is frivolous and not taken in good faith. *See* 28 U.S.C. § 1915(a)(3); Fed. R.  
8 App. P. 24(a)(3)(A); *Hooker*, 302 F.3d at 1092; *Neitzke*, 490 U.S. at 325. Plaintiff’s *in forma*  
9 *pauperis* status on appeal should therefore be revoked.

10 Accordingly, IT IS HEREBY ORDERED that:

- 11 1. Plaintiff’s *in forma pauperis* status on appeal is hereby REVOKED; and
- 12 2. The Clerk of the Court is directed to serve this Order on the Ninth Circuit Court of  
13 Appeals in Case No. 24-3447.

14 IT IS SO ORDERED.

15 Date: June 18, 2024

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Troy L. Nunley  
United States District Judge